

BILL ANALYSIS

S.B. 325
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Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that there is not a process by which law enforcement agencies, courts, governmental entities, or the general public can easily access information regarding individuals who are subject to protective orders relating to family violence and that providing access to such information could reduce the recurrence of such violence and save lives. S.B. 325 seeks to address this issue by requiring the Office of Court Administration of the Texas Judicial System to establish a protective order registry for such purposes and setting out the duties of courts in regard to the registry.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 of this bill.

ANALYSIS

S.B. 325 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA), in consultation with the Department of Public Safety and the courts of the state, to establish and maintain a centralized Internet-based registry for the following:

- protective orders issued by a court in Texas to prevent family violence;
- magistrate's orders for emergency protection issued by a court in Texas with respect to a person who is arrested for an offense involving family violence;
- applications for such protective orders filed in Texas; and
- temporary ex parte protective orders issued under the Family Code by a court in Texas.

S.B. 325 requires OCA, subject to applicable bill provisions, to establish and maintain the registry in a manner that allows municipal and county case management systems to easily interface with the registry and that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding applicable protective orders issued in Texas.

S.B. 325 requires the publicly accessible information regarding each protective order to consist of certain information as prescribed by the bill and specifies that this prescribed information is the only registry information a member of the public may access.

S.B. 325 prohibits OCA from allowing a member of the public to access through the registry any information related to an applicable magistrate's order for emergency protection or an applicable

temporary ex parte protective order.

S.B. 325 requires the registry to be searchable by the county of issuance and by the name and birth year of a person who is the subject of the protective order. The bill requires OCA to establish the registry not later than June 1, 2020, but authorizes OCA to delay establishing the registry for a period not to exceed 90 days if the delay is authorized by resolution of the Texas Judicial Council.

S.B. 325 requires the registry to include a copy of each application for an applicable protective order filed or issued in Texas, including a vacated or expired order, and restricts access to that information to an authorized user, the attorney general, a district attorney, a criminal district attorney, a county attorney, a municipal attorney, or a peace officer. The bill requires OCA to ensure that such persons are able to search for and receive a copy of a filed application for a protective order or a copy of an issued protective order through the registry's website. The bill defines "authorized user" as a person to whom OCA has given permission and the means to submit records to the registry or modify or remove records in the registry and excludes from the term members of the public who may only access through the registry's website certain information regarding protective orders.

S.B. 325 requires the clerk of a court, not later than 24 hours after an application for a protective order is filed, an original or modified protective order is issued, or the duration of a protective order is extended, to enter into the registry, as applicable, a copy of the application, a copy of the order, and, if applicable, a notation regarding any modification or extension of the order and the information prescribed by the bill that must be publicly accessible. The bill, with respect to such entries in the registry:

- requires OCA to ensure that a member of the public is not able to access an application for a protective order filed with a court or any information related to such an application through the registry's website;
- authorizes the clerk to delay entering applicable information into the registry only to the extent that the clerk lacks the specific required information; and
- requires the clerk, for a protective order that is vacated or that has expired, to modify the record of the order in the registry to reflect the order's status.

S.B. 325 requires OCA to ensure that the public may access information through the registry about protective orders, other than information about an applicable magistrate's order for emergency protection or an applicable temporary ex parte protective order, only if a protected person requests that OCA grant the public the ability to access the information described by the bill for the order protecting the person and OCA approves the request. The bill authorizes a person whose request was approved to request that OCA remove the ability of the public to access the information that was the subject of the person's earlier approved request and requires OCA, not later than the third business day after receiving such a request, to remove the ability of the public to access the information. The bill requires the Supreme Court of Texas to prescribe a form for use by a person requesting a grant or removal of such public access and authorizes the supreme court to prescribe by rule procedures for requesting such a grant or removal.

S.B. 325 requires OCA, not later than June 1, 2020, to establish and supervise a training program for magistrates, court personnel, and peace officers on the use of the registry. The training program must make all materials for use in the training program available to magistrates, court personnel, and peace officers.

S.B. 325 prohibits OCA from allowing a member of the public to view the publicly accessible information in the registry through the registry website before September 1, 2020.

S.B. 325 applies to an application for an applicable protective order filed or an applicable protective order issued on or after September 1, 2020.

S.B. 325 makes the requirement for OCA to implement the bill's provisions contingent on specific legislative appropriation but establishes that, if the legislature does not make specific appropriations, OCA may, but is not required to, implement the bill's provisions using other appropriations available for those purposes.

EFFECTIVE DATE

September 1, 2019.